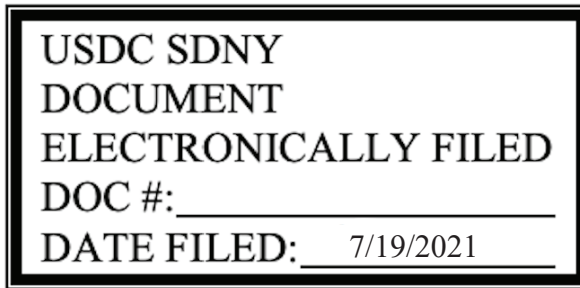


July 17, 2021

FILED VIA ECF

Hon. Victor Marrero
United States Courthouse
500 Pearl Street
New York, New York 10007



**Re: Request for Leave to File Motion for Summary Judgment +
Request to Waive Pre-Motion Conference or Set for Pre-Motion Conference.**
Case: *Sadowski v. Admerasia, Inc., et al.*
Docket #: 1:18-cv-10113-VM

Dear Judge Marrero:

The undersigned is counsel for Plaintiff (Christopher Sadowski) in the above-referenced matter. Plaintiff now requests leave to formally file a motion for summary judgment. Pursuant to Paragraph II.A of your Individual Rules and Practices (2-3-20) currently in effect, we respectfully request that the Court either set the matter for a pre-motion conference or waive the pre-motion conference (for the reasons stated below) and simply enter a scheduling order for the submission of supporting and opposing memoranda.

**Request for Waiver of Pre-Motion Conference
or Set for Pre-Motion Conference**

In the interest of judicial economy and mitigating litigation expenses for all parties, Plaintiff requests that the pre-motion conference be waived and a briefing schedule be set for the filing of supporting and opposing memoranda and related pleadings.

This matter has been pending for three years, and discovery is now complete. There are no disputes of material facts and the legal issues are relatively simple. Moreover, the parties have had substantial discussions and have attempted to resolve the claims (at a mediation as well as Settlement Conference held before Magistrate Judge Fox) without success. For these reasons, we feel a pre-motion conference would not be particularly productive at this time.

However, should the Court feel a pre-motion conference is necessary, Plaintiff requests that a pre-motion telephonic conference be scheduled on a date and time in the coming weeks that may be available¹.

¹ Should the Court decide to require the pre-motion conference, the undersigned would **not** be available on the dates of July 20th, August 3rd, August 4th, and August 19th because of other existing matters already scheduled on those dates, and would ask that those dates be avoided.

Background and Proposed Motion

Plaintiff is a professional photographer by trade, whose primary source of income is to produce newsworthy content to be licensed to major media outlets. He works a regular shift as a independent contractor with the New York Post, and has licensed or sold his photographs to dozens of major media outlets over the years.

Plaintiff brought this action against Defendants for copyright infringement (17 U.S.C. § 101 et seq.) and a related claim under 17 U.S.C. § 1202 after he discovered three of his copyrighted photographs had been republished without his permission or consent on two of Defendants' websites on the World Wide Web. The photographs were continuously displayed on Defendants' sites and disseminated to the general worldwide public in New York and across the world for many months if not years—without a prior license from Plaintiff and without any credit or attribution given to Plaintiff as owner/creator.

Defendant Admerasia, Inc. is a domestic corporation based in New York which owns, operates or controls the aforementioned websites and their content. Undisputed evidence submitted at the outset of this suit and subsequently corroborated by admissions and other evidence from discovery (including Defendants' own deposition) confirms that the domain for both sites were at all relevant times registered and administered by Admerasia or at Admerasia's direction. The same evidence also shows that Defendant Zan Ng is and was at all relevant times the CEO for Admerasia, as well as its founder and owner.

Based on the admissions, deposition testimony and other evidence which have been exchanged through discovery over the past three years, there are no genuine disputes of any material fact. The remaining legal question regarding whether Defendants are liable (jointly and severally) for Plaintiff's claims can be easily determined under well-settled and controlling decisions from the Second Circuit and elsewhere which have long addressed the circumstances that constitute copyright infringement; the limits and parameters of fair use and other recognized defenses; and when a corporate defendant and its owner, officer, or principal may be contributorily or vicariously liable for copyright infringement and related violations of the Copyright Act.

Thus, Plaintiff submits that this matter is now appropriate for resolution through summary judgment. As such, Plaintiff requests leave to formally file a motion for summary judgment and requests that the Court either waive a pre-motion conference (for the reasons noted above) or, should the Court deem it necessary or appropriate, set a future date in the coming weeks for a pre-motion conference to be held on the proposed motion².

Respectfully submitted,

/s/Rayminh L. Ngo
Rayminh L. Ngo, Esq.

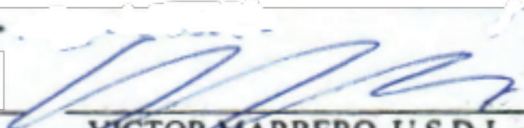
² Should the Court decide to require the pre-motion conference, the undersigned would **not** be available on the dates of July 20th, August 3rd, August 4th, and August 19th because of other existing matters already scheduled on those dates, and would ask that those dates be avoided.

Higbee & Associates

A NATIONAL LAW FIRM

HIGBEE & ASSOCIATES (*Of Counsel*)
Attorney for Plaintiff

CC: Joel L. Hecker, Esq.
Attorney for Defendants

Defendants are		directed to respond
by	July 26	, by letter not to exceed
three		pages, to the matter set forth above by
explaining their position on the contemplated motion.		
SO ORDERED.		
7/19/2021		
DATE	VICTOR MARRERO, U.S.D.J.	